

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

JOAN FAULK OWENS and KAREN )  
LYNN HUBBARD, )  
 )  
Plaintiffs, )  
v. )  
 )  
STATE OF ALABAMA DEPT. OF )  
MENTAL HEALTH AND MENTAL )  
RETARDATION; JOHN HOUSTON, etc.; )  
OTHA DILLIHAY, etc.; HENRY R. )  
ERVIN, etc.; and MARILYN BENSON, etc., )  
 )  
 )  
Defendants. )

Civil Action No. 2:07cv650-WHA  
(WO)

**ORDER**

Upon review of the briefs filed in support of and in opposition to the Motion for Summary Judgment, it appears that the Defendants have advanced an argument as to Count III of the Amended Complaint to which the Plaintiffs have not yet had an opportunity to respond. Specifically, the Defendants have pointed the court to Defendants' Exhibits 19 and 34, job specifications, and have argued that because the Plaintiffs' positions are exempt positions and the position to which they applied is also an exempt position, these positions do not confer a property interest that entitles an employee to due process, citing *Vaughn v. Shannon*, 758 F.2d 1535 (11th Cir. 1985).

If the Plaintiffs do not concede that summary judgment is due to be granted as to any due process claim asserted under the Fourteenth Amendment in Count III of the Amended Complaint, the Plaintiffs shall file their response to the Defendants' argument based on *Vaughn* on or before **August 25, 2008**. The response is limited to the Fourteenth Amendment due process claim in Count III of the Amended Complaint and is not to exceed five pages in length.

Done this 18th day of August, 2008.

/s/ W. Harold Albritton  
W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE